



Director
Office for Civil Rights
Washington, DC 20201

February 4, 2011

Via Certified Mail,
U.S. Postal Service,
Return Receipt Requested

Daniel E. Austin, M.D.
Cignet Health Center
3710 Riviera Street, Suite A1
Temple Hills, Maryland 20784

Re: Our Reference Numbers:

09-93069	09-91526	09-90503	09-96696	09-90182
09-90953	09-90241	09-90424	09-98630	09-92953
09-101250	09-91532	09-96674	09-96603	09-89994
10-107013	09-95813	09-102669	09-100259	09-100874
10-103417	09-101674	09-96357	09-90294	09-93174
09-92307	09-93177	09-94133	09-95812	09-98001
09-96464	09-91923	09-98636	09-102389	
09-93265	09-95273	09-96365	09-96796	

NOTICE OF FINAL DETERMINATION

Dear Dr. Austin:

Pursuant to the authority delegated by the Secretary of the United States Department of Health and Human Services (HHS) to the Director of the Office for Civil Rights (OCR), I am writing to inform you that the civil money penalty (CMP) of **\$4,351,600** against Cignet Health d/b/a Uplift Medical, P.C., Cignet Health Center, Cignet Health Plan, and/or Cignet Healthcare (hereinafter referred to as "Cignet") is final. This letter also contains instructions for Cignet to make payment of the CMP amount.

I. Failure to Request a Hearing

By my letter dated October 20, 2010 (Notice of Proposed Determination, which is attached hereto), Cignet was notified of the proposed CMP of **\$4,351,600** and the

findings of fact forming the basis for the CMP. The Notice of Proposed Determination notified Cignet of its right to request a hearing on the proposed CMP and gave instructions for Cignet to request a hearing within 90 days. The Notice of Proposed Determination stated that Cignet's failure to request a hearing within that time period permitted the imposition of the proposed CMP without the right to a hearing under 45 C.F.R. § 160.504 or the right of appeal under 45 C.F.R. § 160.548.

Cignet received the Notice of Proposed Determination on October 25, 2010. The 90-day time period to request a hearing expired on January 24, 2011. Cignet did not file a request for a hearing by that date in accordance with the instructions in the Notice of Proposed Determination. Since Cignet did not request a hearing and there has been no settlement of the matter, I have determined that the imposition of the CMP in the amount of **\$4,351,600** is now final (45 C.F.R. § 160.422). Because Cignet did not timely request a hearing, it no longer has the right to appeal this penalty (45 C.F.R. § 160.422).

II. Instructions for Payment of the CMP Amount

Payment of the full and aggregate amount of **\$4,351,600** is due upon Cignet's receipt of this Notice of Final Determination. Payment can be made by electronic funds transfer in accordance with the instructions on Exhibit 1 to this Notice.

III. Consequences of Nonpayment

In the event that payment is not received by certified check or wire funds transfer upon Cignet's receipt of this Notice of Final Determination, the amount of the penalty may be deducted from any sum then or later owing by the United States or by a State agency, and a civil action may be brought in the United States District Court to recover the amount of the penalty.

IV. The Legal Basis for This Action

This action is being taken under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), § 262(a), Pub.L. 104-191, 110 Stat. 1936, as amended, *codified at* 42 U.S.C. § 1320d-5, and under the enforcement regulations at 45 C.F.R. Part 160, subpart D. The Secretary of HHS is authorized to impose CMPs (subject to the limitations at 42 U.S.C. § 1320d-5(b)) against any covered entity, as described at 42 U.S.C. § 1320d-1(a), that violates a provision of Part C (Administrative Simplification) of Title XI of the Social Security Act. *See* 42 U.S.C. § 1320d-5(a), as amended. This authority extends to violations of the regulations commonly known as the Privacy Rule promulgated at 45 C.F.R. Part 160 and subparts A and E of Part 164, pursuant to Section 264(c) of HIPAA. The

Secretary has delegated enforcement responsibility for the Privacy Rule to the Director of OCR. *See* Office for Civil Rights; Statement of Delegation of Authority, 65 Fed. Reg. 82381 (Dec. 28, 2000).

If you have any questions concerning this letter, please contact Marlene Rey, Acting Regional Manager, OCR, Region III, at 215-861-4441.

Sincerely,

ls\

Georgina Verdugo
Director, Office for Civil Rights

Enclosed:
Exhibit 1 – EFT Instructions
Attachment – Notice of Proposed Determination

cc: Darrell Allen